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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,985	01/05/2007	Joachim Beine	1131-18-PCT-PA-TD	5542
22145	7590	11/28/2011	EXAMINER	
KLEIN, O'NEILL & SINGH, LLP 18200 VON KARMAN AVENUE SUITE 725 IRVINE, CA 92612			WILLIAMS, STEPHANIE ELAINE	
			ART UNIT	PAPER NUMBER
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			11/28/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/571,985	Applicant(s) BEINE ET AL.	
	Examiner STEPHANIE E. WILLIAMS	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 19-41 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 19-41 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input checked="" type="checkbox"/> Other: <u>Applicant's drawings</u> . |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/23/2011 has been entered.

Allowable Subject Matter

2. The indicated allowability of dependent claim 42 is withdrawn in view of the newly discovered reference(s) to Cook. Rejections based on the newly cited reference(s) follow. Office apologizes to Applicant for any inconvenience.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 19-27,29-31,37-39,41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (2004/0013325) in view of Larkin et al. (4,547,900).

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5. The Cook reference discloses a apparatus and method of a molder container (10) having a plurality of walls including a first side wall (12) and a second side wall (20), two collapsible walls (28) each being disposed in between the first side wall and the second side wall, a bottom wall (para.0020-0022) configured for standing upright, and a shoulder portion (see fig.2); wherein the bottom wall includes an interior wall surface (see bottom right side of fig.1) and an exterior wall surface (see fig.1; at 38,36,16,24) and a fold line (bottom fold line between the converging lines at right bottom of bag; see fig.1) separating the interior wall surface into a first interior section (on the sides of the exterior wall surface; see fig.1) and a second interior section (on the sides of the exterior wall surface; see fig.1) and at least two transverse fold lines (see fig.1, near 38 and 36; converging lines) that are angled to one another (see fig.1) and wherein portions of the first interior section and the second interior section of the bottom wall move closer to one another and wherein portions of the exterior wall surface of the bottom wall move outwardly away (see fig.1) from the interior cavity (internal area of 10) from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container (10) collapses; and wherein the fold line (bottom fold line between the converging lines at right bottom of bag; see fig.1) is formed by a weakened portion in the bottom wall (para.0020-0022); and wherein the two collapsible walls (28) each includes two or more fold lines (34); and wherein the fold lines (34) are arranged in a group such that they form an accordion-like folding; and where the transverse fold lines (see fig.1, near 38 and 36; converging lines) moves outward during flattening.

However the Cook reference lacks a port on the shoulder of the container.

The Larkin et al. reference teaches a container for liquids having a discharge end having at least one port (13) with a pierceable membrane (15,17) for the purpose of withdrawing liquid from the container.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the Cobb device to have a port with a pierceable member as taught by Larkin et al. in order to provide the user with a sanitary and safe way of drawing fluid from the container.

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (2004/0013325) in view of Larkin et al. (4,547,900) as applied to claim 19 above, and further in view of Braun (3,171,412).

7. The Cook and Larkin et al. references disclose substantially all the structure and functionality of the invention. However both references lack a bottom wall of the container having a projecting suspension plug.

The Braun reference teaches a container (11) for biological liquids having a bottom wall with a projecting suspension lug (12) for the purpose of suspending the container to expel the liquids efficiently from the container.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the bottom wall of Cook and Larkin et al. devices to have a projecting suspension plug as taught by Braun in order to provide the user with hand off way of dispensing fluids from the container as desired.

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8. Claims 32-36,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (2004/0013325) in view of Larkin et al. (4,547,900) as applied to claims 29,32,38 above, and further in view of Schaefer (4,986,053).

9. The Cook and Larkin et al. references disclose substantially all the structure and functionality of the invention; however the both references lack the pre-form of the container being a multi-layer pre-form consisting of an overall wall thickness.

The Schaefer teaches a the method of manufacturing the perform of the container having a multi-layer perform consisting of an overall wall thickness (see fig.1); and wherein at least one of the layers is a layer of adhesive agent (18); and wherein at least one of the layers is a layers is made from an ethylene/vinyl alcohol material (14); and wherein an outer layer is made of a polyamide or a polyester material (16) for the purpose of holding/packaging a various of products.

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have reasonably modified the container of the Cook and Larkin et al. devices to have a perform container with multi-layers as taught by Schaefer in order to provide a holding for certain volatile materials without shorting the life use of the container itself.

10. Claims 19-26,29-31,37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (2004/0013325) in view of Cobb (3,727,803).

11. The Cook reference discloses a apparatus and method of a molder container (10) having a plurality of walls including a first side wall (12) and a second side wall

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(20), two collapsible walls (28) each being disposed in between the first side wall and the second side wall, a bottom wall (para.0020-0022) configured for standing upright, and a shoulder portion (see fig.2); wherein the bottom wall includes an interior wall surface (see bottom right side of fig.1) and an exterior wall surface (see fig.1; at 38,36,16,24) and a fold line (bottom fold line between the converging lines at right bottom of bag; see fig.1) separating the interior wall surface into a first interior section (on the sides of the exterior wall surface; see fig.1) and a second interior section (on the sides of the exterior wall surface; see fig.1) and at least two transverse fold lines (see fig.1, near 38 and 36; converging lines) that are angled to one another (see fig.1) and wherein portions of the first interior section and the second interior section of the bottom wall move closer to one another and wherein portions of the exterior wall surface of the bottom wall move outwardly away (see fig.1) from the interior cavity (internal area of 10) from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container (10) collapses; and wherein the fold line (bottom fold line between the converging lines at right bottom of bag; see fig.1) is formed by a weakened portion in the bottom wall (para.0020-0022); and wherein the two collapsible walls (28) each includes two or more fold lines (34); and wherein the fold lines (34) are arranged in a group such that they form an accordion-like folding; and where the transverse fold lines (see fig.1, near 38 and 36; converging lines) moves outward during flattening.

However Cook lacks a port on the shoulder of the container.

The Cobb reference teaches a collapsible container (see fig.1) having a shoulder portion (sloped portion above 11; see fig.1) having a port (at 12).

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have reasonably modified the Cook reference to include a port as taught by Cobb in order to for "the contents of the container to be dispensed easily and without loss" (col.1, lines 65,66).

12. Claims 27 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (2004/0013325) in view of Cobb (3,727,803) as applied to claims 19 and 38 above, and further in view of Larkin et al. (4,547,900).

13. The Cook and Cobb references discloses substantially all the structure and functionality of the invention; however the both references lack a container with a port having a pierceable membrane.

The Larkin et al. reference teaches a container for liquids having a discharge end having two ports (13,14) with a pierceable membrane (15,17) for the purpose of withdrawing liquid from the container.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the Cook and Cobb devices to have a port with a pierceable member as taught by Larkin et al. in order to provide the user with a sanitary and safe way of drawing fluid from the container.

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14. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (2004/0013325) in view of Cobb (3,727,803) as applied to claim 19 above, and further in view of Braun (3,171,412).

15. The Cook and Cobb references disclose substantially all the structure and functionality of the invention. However both references lack a bottom wall of the container having a projecting suspension plug.

The Braun reference teaches a container (11) for biological liquids having a bottom wall with a projecting suspension lug (12) for the purpose of suspending the container to expel the liquids efficiently from the container.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the bottom wall of Cook and Cobb devices to have a projecting suspension plug as taught by Braun in order to provide the user with hand off way of dispensing fluids from the container as desired.

16. Claims 32-36,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (2004/0013325) in view of Cobb (3,727,803) as applied to claims 29,32,38 above, and further in view of Schaefer (4,986,053).

17. The Cook and Cobb references disclose substantially all the structure and functionality of the invention; however the both references lack the pre-form of the container being a multi-layer pre-form consisting of an overall wall thickness.

The Schaefer teaches a the method of manufacturing the perform of the container having a multi-layer perform consisting of an overall wall thickness (see fig.1);

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and wherein at least one of the layers is a layer of adhesive agent (18); and wherein at least one of the layers is a layers is made from an ethylene/vinyl alcohol material (14); and wherein an outer layer is made of a polyamide or a polyester material (16) for the purpose of holding/packaging a various of products.

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have reasonably modified the container of the Cook and Cobb devices to have a perform container with multi-layers as taught by Schaefer in order to provide a holding for certain volatile materials without shorting the life use of the container itself.

Response to Arguments

18. Applicant's arguments with respect to claims 19-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takahashi et al. (7,156,556), La Fleur (3,143,277), Duvall (1,733,219), Ichikawa et al. (6,126,315), Matsumoto et al. (7,221,891), Kuge et al. (7,005,150), and Terazawa et al. (6,608,983) are other various types of molded containers.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE E. WILLIAMS whose telephone number is (571)272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. E. W./
Examiner, Art Unit 3754

/KEVIN P. SHAVER/
Supervisory Patent Examiner, Art
Unit 3754